

EXHIBIT #15
TO
DEYOUNG DECLARATION

The Wronged Man

Unjustly Imprisoned and Mistreated, Khaled al- Masri Wants Answers the U.S. Government Doesn't Want to Give

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Khaled al-Masri was supposed to have been disappeared by black- hooded CIA paramilitaries in the dead of night. One minute he was riding a bus in Macedonia, the next — poof — gone. Grabbed by Macedonian agents, handed off to junior CIA operatives in Skopje and then secretly flown to a prison in Afghanistan that didn't officially exist, to be interrogated with rough measures that weren't officially on the books. And then never to be heard from again — one fewer terrorist in the post-9/11 world.

Instead, on Tuesday, Masri finds himself sitting in an American courtroom so elegant that even his experienced lawyers are commenting on its beautiful dark wood and graceful chandeliers. Dressed in white shirt sleeves and a modest maroon vest, Masri is waiting to see if the judges will allow the CIA to disappear him again.

This time, it's not the physical, flesh-and-blood, burly, ponytailed German citizen with six kids whom the U.S. government wants to make vanish from the face of the Earth. It's his legal case, his very right to have his argument heard in open court, that the CIA is seeking to have disappeared. They argue, citing the state- secrets privilege, that to proceed with the case would damage national security and that this damage outweighs any legal rights Masri may have.

The U.S. District Court for the Eastern District agreed with the government in May.

If they have their way this time, the pale Justice Department lawyers swaying back in their chairs before the three judges of the U.S. Court of Appeals for the 4th Circuit would prohibit any judge and any jury anywhere from ever hearing the arguments in Masri's six legal pleadings and 40 exhibits, more than 1,000 pages in all. Much of the evidence was unearthed by German prosecutors and European Parliament investigators.

There are also the eight U.S. officials who confirmed to at least one American reporter that Masri spent months in a dank Afghan cell because a couple of CIA officials in Washington had a hunch he was someone he was not and that they just didn't move fast enough when they found out he wasn't. Countless other reporters in the United States and Europe have been told the same by unnamed government officials.

So basically, "the entire world can discuss this case . . . but not the U.S. courts?" Masri's lawyer Ben Wizner will momentarily ask the panel.

But for now, the first Invisible Man to appear on U.S. soil is listening intently to the other cases the judges have to consider before his, including one about an Internet user's First Amendment free-speech rights. Masri's translator, Ulrike Wiesner, whispers in his ear: "They can even burn the American flag here." Burning a German flag is illegal in Germany. Those crazy Americans.

Masri whispers back: "Well, let's see if that applies to us Indians." They laugh quietly.

Much of Masri's ordeal has been confirmed by the German government. He fled the civil war in Lebanon in 1985 when he was 21 and married a German woman. He was divorced 10 years later and then married a Lebanese woman. He worked as a carpenter, then truck driver, then car salesman. Since 2004 he has been unemployed and living with his children and wife in a one-room apartment.

His deteriorating living conditions were a stress on his marriage. On Dec. 30, 2003, he decided to get away, to take a bus trip to Macedonia to clear his head. To make a very long story shorter, Macedonian police took him off the bus and interrogated him at the Skopski Merak Hotel for 23 days.

This being the Internet age, Masri says in one legal declaration: From the hotel Web site "I can identify the actual room where I was held. . . . I even recognize one of the waiters who served me food during my detention there."

At some point a couple of people who sounded American showed up. On Jan. 23, 2004, things took a bad turn. Current and former CIA officials say Masri was believed to have a fake passport and the same name as someone else they were looking for.

He was eventually brought to another room where, according to his affidavit, "I felt two people violently grab my arms. . . . I then felt someone else grab my head with both hands so I was unable to move. . . . Finally they stripped me completely naked and threw me to the ground. . . . I felt a boot in the small of my back. I then felt a stick or some other hard object being forced in my anus. I realized I was being sodomized. Of all the acts these men perpetrated against me, this was the most degrading and shameful."

For his flight to Afghanistan, Masri was blindfolded, "my ears were plugged with cotton, and headphones were placed over my ears. A bag was placed over my head and a belt around my waist. They put something hard over my nose. Because of the bag, breathing was getting harder and harder for me. . . . I began to panic."

He spent five months in a filthy secret prison set up by the CIA and guarded by Afghans. He was made to drink water so putrid it made him vomit. He slept on a single blanket, shivered through the cold months and was fed chicken bones and skin. He was beaten and interrogated many times, sometimes by people he believes to be Americans. He went on a hunger strike, lost 60 pounds.

Eventually the CIA caught up with its mistake. They argued with the State Department over whether to tell the Germans and eventually agreed they could not lie to such a close ally. So they chose to tell then-Interior Minister Otto Schily because he was thought to be Washington-friendly.

Masri was released in Albania, then flown to Germany, where he made his way home to Ulm. There, he contacted a lawyer and then the German authorities. "What I really want is for them to admit that injustice was done. I'd like an explanation and I'd like an apology," he said.

Is a state secret still a secret if everyone knows it? That's what the court case boils down to at this point.

Masri's lawyers say no.

They point to President Bush's Sept. 6, 2006, disclosure that the CIA ran secret prisons abroad and conducted covert rendition flights as part of its counterterrorism campaign.

They point to Secretary of State Condoleezza Rice's statement that if there were injustices in these programs, they can be remedied in U.S. courts.

They point to the testimony of Schily before the German Parliament just last week in which he said that then-U.S. Ambassador Daniel R. Coats had told him that the CIA had mistakenly imprisoned Masri and offered an apology — not to Masri, but to the German government. They point to reams and reams of official German evidence.

The CIA and Justice Department lawyers strongly disagree. They argue that allowing a case to go forward could lead to a "cascading" of disclosures, many unforeseen, and that foreign governments would refuse to work in secret with the CIA for fear they could end up in court.

"Just because some facts are in the public domain doesn't eliminate the need to keep others secret," Justice Department attorney Gregory Katsas argued Tuesday. The president's announcement, he added, has "zero overlap" with Masri's allegations. "Even disclosures to judges carry risks," he reminded them.

Before all this happened, "I was a very simple person with not many problems," Masri says, straining and pausing to find words, or gather his thoughts. "I had lots of friends. My head was not burdened with so many things. I felt more safe."

Today's Masri "has less freedom. . . . This Khaled stays mostly at home. There's too much stress. And my interests have changed. I am reading a lot now, about politics and prisoners."

He has testified before government panels in Spain, Germany and to the European Parliament investigating the CIA's covert activities. He is in the news constantly, often with allegations of alleged ties to terrorist groups. Still unemployed and reconciled with his wife, he hates the limelight. He hates the stares on the streets and the Germans who call out to him, as one did recently in the supermarket: "You are a bad man!"

He has flashbacks, too. And his mood turns bad whenever he sees war news, especially from the recent war in Lebanon, where he still has family. "I get in a bad mood and just want to be left alone in my room," he says, "to withdraw."

Today, 10 cameras are waiting for him to finish his omelet and coffee and walk into the courthouse. "I am very nervous

inside," he says.

The last time Masri tried to come to the United States to listen to his court case, he and his attorney had walked off the plane in Atlanta and found 20 security guards waiting for them, both men said. He didn't have a visa because German citizens don't need visas to enter the United States. Instead of letting him in, one of officers drew his gun and threatened to shoot the lawyer if he did not put away his cellphone.

Flying back to the United States this week, Masri expected another hostile airport scene: "I had a funny feeling. I always thought they would take me and send me back to somewhere other than home."

This time immigration authorities were polite, looked through his luggage, asked him some questions, even spoke a little German. Eventually, one of them said "Welcome to America" and let him pass to the other side.

"I think it's really good I've gotten this far," he says with a slight smile.

Asked how he feels toward the United States after all this, he shrugs.

"I never thought badly of the United States. I do think badly of the foreign policy aspects and the sitting government."

Nudge a little further and he'll say he'd like "an America without Bush."

And a little further:

"I'd like to drive with the top down in a fancy car through New York City and to look up at all the tall buildings," he laughs, looking up to the ceiling and throwing open his arms. "You've got a real view of the whole thing from a car without a top."

Credit: Washington Post Staff Writer

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